

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 5564 of 2005(K)

CMA.346/2003 of ADDL. DISTRICT COURT, THODUPUZHA
I.A.1302/03 IN O.S.234/03 OF THE MUNSIFF'S COURT, THODUPUZHA
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PETITIONER:

E.K. JOHN, S/O. KORA,
ELICKAL HOUSE, CHUNKAM KARA, THODUPUZHA VILLAGE
THODUPUZHA TALUK.

BY ADV. SRI.GEORGE THOMAS (MEVADA)

RESPONDENTS:

1. SRI. BABU JOHN, S/O. JOHN,
PUTHUSSEERIL HOUSE, AVOLY KARA,
MUVATTUPUZHA VILLAGE, MUVATTUPUZHA TALUK.

2. SMT.VALSAMMA, W/O. JOHN,
PUTHUSSEERIL HOUSE, AVOLY KARA,
MUVATTUPUZHA VILLAGE, MUVATTUPUZHA TALUK.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX(WPC 5564/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE PHOTO COPY OF DOCUMENT NUMBER 2810/92 OF SRO,THODUPUZHA.

EXT.P2: TRUE PHOTO COPY OF THE SKETCH.

EXT.P3: TRUE PHOTO COPY OF THE ORDER IN I.A.1302/03.

EXT.P4: TRUE PHOTO COPY OF THE JUDGMENT IN CMA 346/03 DT. 17.1.2005.

RESPONDENTS' EXTS.:

EXT.R1(a): TRUE COPY OF THE PLAINT IN O.S.234/03.

EXT.R1(b): TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENTS
HEREIN/DEFENDANTS IN O.S.234/03.

EXT.R1(c): TRUE COPY OF THE COMMISSION REPORT DATED 4.2.2004 IN LAR
NO.56/02.

EXT.R1(d): TRUE COPY OF EXT.B10 MARKED IN EXT.P4.

PIUS C. KURIAKOSE,J.

W.P.(C) No.5564 of 2005

Dated: 18th June, 2007

JUDGMENT

Mr.George Thomas Mevada, counsel for the petitioner submits that the Writ Petition can be disposed of directing the trial court to dispose of the suit as expeditiously as it can, and that the parties can also be directed to maintain status quo as obtaining on 17.2.2005 (the date on which this court passed the interim order for directing maintenance of status quo).

2. Mr.Sajan Varghese, counsel for the respondents submits that the status quo to be maintained by the parties is the status quo which has been found by the court below. Directing continuance of the status quo as on 17.2.2005, according to the learned counsel, will be virtually allowing the Writ Petition and interfering with Exts.P3 order and Ext.P4 judgment.

3. Having considered the rival submissions made and having gone through Exts.P3 and P4 it will be stated at once at there is no warrant for interfering with Exts.P3 and P4 in this court's visitorial jurisdiction under Article 227 of the Constitution. However, the observations and findings contained in Exts.P3 and P4 are to be understood as having been made for the purpose of deciding the

interlocutory application for injunction. The suit will have to be disposed of by the learned Munsiff on the basis of the evidence which the parties adduce at trial.

4. This court directed maintenance of status quo as on 17.2.2005 by the order which was passed on that day. The above direction is continuing till date. The suit is of the year 2003 and I am sure that the learned Munsiff will be able to dispose of the suit within another three months. This court has only directed maintenance of status quo as on 17.2.2005. In my opinion by directing maintenance of that status quo for a further period of four months, no prejudice will be caused to the respondent. Whatever may be the merits of the case, as I found earlier Exts.P3 and P4 are only interlocutory proceedings.

5. Under these circumstances, I refuse to interfere with Exts.P3 and P4 and dispose of the Writ Petition directing the learned Munsiff to special list the suit for trial in the earliest available special list and dispose of the suit in accordance with law. The learned Munsiff shall not be unduly influenced by the observations and findings in Exts.P3 and P4. The learned Munsiff will treat those findings as made only in the context of the application for interim injunction. The suit shall be

disposed of on the basis of the evidence which comes on record during trial. The learned Munsiff shall at any rate dispose of the suit by the 15th October, 2007. The parties will maintain status quo obtaining as on 17.2.2005 till the suit is disposed of.

srd

PIUS C.KURIAKOSE, JUDGE